

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 15-1672

Caption [use short title]

Motion for: Leave to File Brief in Excess of the Type-Volume

United States et al.,
Plaintiffs-Appellees

Limitation of Fed. R. App. Proc. 32(a)(7)(B).

v.
American Express Co. et al.,
Defendants-Appellants

Set forth below precise, complete statement of relief sought:

Amex seeks leave to file a principal brief in excess of the

14,000 word limit provided by Fed. R. App. Proc. 32(a)(7)(B).

Amex seeks leave to file a principal brief containing an

additional 6,000 words, bringing the total limit to 20,000 words.

MOVING PARTY: American Express Co.

OPPOSING PARTY: United States

☐ Plaintiff

☒ Defendant

☒ Appellant/Petitioner

☐ Appellee/Respondent

MOVING ATTORNEY: Evan R. Chesler

OPPOSING ATTORNEY: Nickolai G. Levin

[name of attorney, with firm, address, phone number and e-mail]

Cravath, Swaine & Moore LLP

U.S. Department of Justice, Antitrust Division, Appellate Section

825 Eighth Avenue, Worldwide Plaza, New York, NY 10019

950 Pennsylvania Ave. NW, Off. 3224, Washington, DC 20530

(212) 474-1000, echesler@cravath.com

(202) 514-2886, nickolai.levin@usdoj.gov

Court-Judge/Agency appealed from: Hon. Nicholas G. Garaufis, U.S. District Court for the Eastern District of New York

Please check appropriate boxes:

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND
INJUNCTIONS PENDING APPEAL:

Has movant notified opposing counsel (required by Local Rule 27.1):

Has request for relief been made below? ☐ Yes ☐ No

☒ Yes ☐ No (explain):

Has this relief been previously sought in this Court? ☐ Yes ☐ No

Requested return date and explanation of emergency:

Opposing counsel's position on motion:

☒ Unopposed ☐ Opposed ☐ Don't Know

Does opposing counsel intend to file a response:

☐ Yes ☒ No ☐ Don't Know

Is oral argument on motion requested?

☐ Yes ☒ No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☐ Yes ☒ No If yes, enter date:

Signature of Moving Attorney:

/s/ Evan R. Chesler

Date: June 19, 2015

Service by: ☒ CM/ECF

☐ Other [Attach proof of service]

15-1672-cv

United States Court of Appeals
for the
Second Circuit

UNITED STATES, *et al.*,

Plaintiffs-Appellees

v.

AMERICAN EXPRESS CO., *et al.*,

Defendants-Appellants

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK, No. 10-cv-4496-NGG

**APPELLANTS' UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF
IN EXCESS OF THE TYPE-VOLUME LIMITATION OF FRAP 32(a)(7)(B)**

Donald L. Flexner
Philip C. Korologos
Eric J. Brenner
BOIES, SCHILLER & FLEXNER LLP
575 Lexington Avenue
New York, NY 10022
(212) 446-2300

Evan R. Chesler
Counsel of Record
Peter T. Barbur
Kevin J. Orsini
CRAVATH, SWAINE & MOORE LLP
825 Eighth Avenue
New York, NY 10019
(212) 474-1000

Attorneys for Defendants-Appellants

Defendants-Appellants American Express Company and American Express Travel Related Services Co., Inc. (collectively, “Amex”) hereby move for an order permitting Amex to file a principal brief that exceeds the 14,000 word limitation of Federal Rule of Appellate Procedure 32(a)(7)(B)(i) by up to 6,000 additional words, resulting in a total word count of no more than 20,000 words.

Amex requests this enlargement of its brief because the record and prior proceedings in this appeal are voluminous and complex. The appeal concerns a 150-page decision issued by the district court after a seven-week bench trial involving 38 fact and expert witnesses and over 1,000 trial exhibits admitted into evidence. While the parties are intimately familiar with the record and the issues, the Court is not. Amex therefore makes this request for an enlargement of its principal brief in order to present this voluminous record clearly to the Court and to present the issues raised by this appeal in a manner that will assist the Court in its consideration of the important issues raised by this appeal.

This Court has also previously granted similar extensions of the word limit in antitrust cases. See, e.g., Motion Order, United States v. Visa, No. 02-6074(L) (2d Cir. May 9, 2002) (granting appellant Visa an additional 6,000 words for its principal brief, bringing the overall limit to no more than 20,000 words).

Amex has sought the consent of counsel for Plaintiffs-Appellees (collectively, the “Government”) to this motion and counsel for the Government have stated that they do not oppose the relief Amex seeks herein. Amex has agreed that it will not oppose a similar motion by the Government in connection with its responsive briefing.

Conclusion

For the foregoing reasons, Amex respectfully requests that this Court grant it leave to file a principal brief not exceeding 20,000 words.

Dated: June 19, 2015

CRAVATH, SWAINE & MOORE LLP

By

/s/ Evan R. Chesler

Evan R. Chesler

Peter T. Barbur

Kevin J. Orsini

825 Eighth Avenue

New York, NY 10019

(212) 474-1000

BOIES, SCHILLER & FLEXNER LLP

By

/s/ Donald L. Flexner

Donald L. Flexner

Philip C. Korologos

Eric J. Brenner

575 Lexington Avenue

New York, NY 10022

(212) 446-2300

*Counsel for Defendants-Appellants
American Express Company and
American Express Travel Related Services
Company, Inc.*